

REMARKS/ARGUMENTS

Claims 1-31 are pending in the application.

Claims 1-15 and 24-31 of this group stand as being allowed--as is announced in the captioned Examiner's Action. Claims 16-23 of the application stand as being rejected with rejection being based on 35 U.S.C. 112, second paragraph in view of the phrase "saddle-like" in claim 16 being held to be indefinite. The Examiner's Action also includes drawing objections based on absence of recitation of several drawing legend numbers in the application specification.

In response applicants herein amend rejected claim 16 of the application to include the language suggestion made by Examiner VerSteeg, provide detailed comments regarding noted instances of legend number difficulties and request changes originating in noted legend number difficulties and changes arising during applicants' review of the extensive application as requested in the Examiner's Action. Applicants also address herein an issue relating to the request for non-publication of the original application noted during a present review of the application while preparing this amendment.

Turning then to details regarding the present changes to the application and a consideration of these details in the order of appearance in the Examiner's Action to the best degree possible, the 37 C.F.R. 1.84(p)(5) drawing objections are believed resolved as follows:

1. The reference character 13' does in fact appear in line 9 of paragraph 0101 of the original application (as located during a computerized search of the application).
2. Similarly the reference character 21 appears in line 16 of paragraph 0078 of the original application (as also located during a computerized search of the application).
3. The reference character 13a in original FIG. 9b is herein omitted from the drawing as suggested in the Examiner's Action.
4. The reference character 13' appears in line 7 of paragraph 0105 of the original application however this character is renamed to be "3a" herein in view of possible confusion with the several other uses of a character 3' in the application. This renamed "3a" character appears in revised FIG. 9c and 10 of the application.

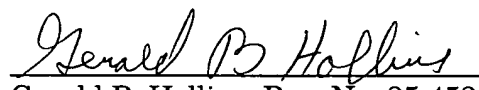
Concerning a correction of minor errors in the application, the above paragraph 0105 and subsequent changes, including the claim 1 changes, are believed to be examples of such minor errors corrected herein.

With respect to the 35 U.S.C. 112 rejection applicants herein replace the claim 16 phrase "saddle like" with the phrase "saddle shaped" as suggested in the Examiner's Action. This change is believed to place rejected claims 16-23 in allowable condition.

Concerning the previously filed request and certification under 35 U.S.C. 122(b) regarding non publication of the present application, applicants understand that certain foreign of the named inventors of the application and their foreign employer did in fact accomplish filing of Patent Cooperation Treaty, Russian and Ukrainian applications corresponding to the instant U.S. application shortly prior to the one year convention date from the filing of the U.S. application. Following a current investigation applicants now understand the language of 35 U.S.C. 122(b)(B)iii to dictate that the instant U.S. application therefore became abandoned upon expiration of 45 days after the first of these applications was filed-since notification of this filing to the U.S. Patent and Trademark Office was overlooked during the critical 45 day period. A petition with fee regarding revival of the thus unintentionally abandoned application accompanies the present amendment. A statement seeking to establish unintentional delay in notification of these foreign filings accompanies this petition.

Revival of the present application, allowance of all claims and passage of the application to issuance are respectfully solicited.

Respectfully submitted,


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Attachments

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 10/693,482 Confirmation No. : 2529
Applicant(s) : Ivan I. Aksenov et al.
Filed : October 21, 2003
TC/AU : 1753
Examiner : Steven H. VerSteeg
Docket No. : AFD 639
Customer No. : 26902

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**STATEMENT REGARDING UNINTENTIONALLY DELAYED NOTIFICATION OF
FOREIGN FILING**

Rights in the instant invention were early divided into United States rights owned by the U.S. Air Force and foreign rights owned by the employer of several co-inventors, the Kharkov Institute of Physics of Kharkov, Ukraine, 61108. Under the agreement establishing these rights the U.S. Air Force agreed to draft and file a United States patent application concerning the invention. The Kharkov Institute hoped to find funding to file one or more corresponding priority applications based on this United States application in selected other parts of the world. The certainty of and the possible number of these corresponding applications was never clarified during preparation of the United States application.

The normal practice of the U.S. Air Force is to request non publication of filed patent applications. This practice has been followed since commencement of United States application publications several years ago and was initiated by others in the U.S. Air Force patent procurement staff. This practice also includes an almost total absence of foreign filing activity. In fact the undersigned attorney has never, in some twenty years of work, prosecuted a U.S. Air Force patent application in which foreign filing has been involved. This procedure was routinely followed at the filing of the instant application in the U.S.

Patent and Trademark Office and resulted in the filed request for non publication. As a result of last minute haste to obtain application signatures and complete the U.S. filing process it appears that the possibility of foreign filings by persons other than our office and a special consideration over whether a request for non-publication of the application was appropriate in this isolated instance was inadvertently never made a part of this last minute process.

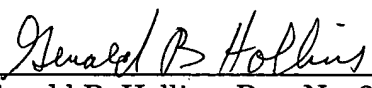
Months after these events accompanying U.S. filing of the application, in fact just prior to expiration of the one year convention period, applicants' U.S. Air Force attorneys received requests for certified copies of the application from the foreign inventors and thus an indication of their possible continuing interest in a foreign filing of the application. These requests came second hand from the foreign inventors rather than from an engaged law firm or other foreign practitioner. The work and expense of accomplishing timely second hand delivery of these copies to the foreign inventors was borne by the U.S. Air Force and hence focused attention in our office on replying activity rather than on details (including 35 U.S.C. 122 requirements) considered during the earlier United States filing process.

The remainder of this sequence can be readily surmised, there was in fact foreign filing accomplished by the foreign inventors and their Kharkov Institute employer (notably not by the U.S. Air Force). This filing occurred just days prior to expiration of the convention period. Although notice of this filing arrived within a week of its accomplishment this apparently routine reception again failed to raise questions in inexperienced minds regarding the 35 U.S.C. 122 requirements, including the 45 day suspense period for notice of such filing to be sent to the U.S. Patent and Trademark Office.

Applicants therefore believe the instant failure to notify the U.S. Patent and Trademark Office of foreign filings is fairly characterized as being "unintentional". Applicants thus include herewith a petition accomplished on a substitute form PTO SB64a together with a \$1500.00 "unintentional" petition fee requesting revival of the deemed abandoned application.

The instant petition is filed as soon as possible after a reopening of the application file and achieving a complete understanding of the factual situation attending the applications and the related U.S. Patent and Trademark Office rules. All of this occurred in connection with preparation of a response to the captioned outstanding Examiner's Action.

Respectfully submitted,



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Amendments to the Drawings:

The attached replacement sheet 5 of drawings includes changes to FIG. 5. This sheet replaces the original sheet 5. In the replacement FIG. 5, previously omitted legend numbers 4, 9a and 34, as recited in paragraph [0106] of the original application, and as are included in other drawings and paragraphs of the application, are added.

The attached replacement sheet 17 of drawings includes changes to FIG. 9b. This sheet replaces the original sheet 17. In the replacement FIG. 9b, previously omitted legend number 8, as recited in paragraph [0104], for example is added and the unused legend number 13a as noted in the Examiner's Action is omitted.

The attached sheet 18 of drawings includes a change in FIG. 9c. This sheet replaces the original sheet 18. In the replacement FIG. 9c, previously shown legend number 3', as recited in paragraph [0105] of the original application, is changed into legend number "3a" to remove possible confusion involving other uses of the legend 3' in other drawings of the application. A corresponding change in paragraph [0105] is accomplished above herein.

The attached sheet 19 of drawings includes changes to FIG. 10. This sheet replaces the original sheet 19. The replacement FIG. 10 previously included a legend number 3' in the upper left area and omitted a lead line for the legend number 28. As noted in the Examiner's Action this legend number 3' was omitted in the language of the original application. This number is, however, believed unnecessary and possibly in confusing conflict with other uses of legend number 3' in the application, and is thusly now omitted.

Attachment: Replacement Drawing Sheets 5, 17-19.



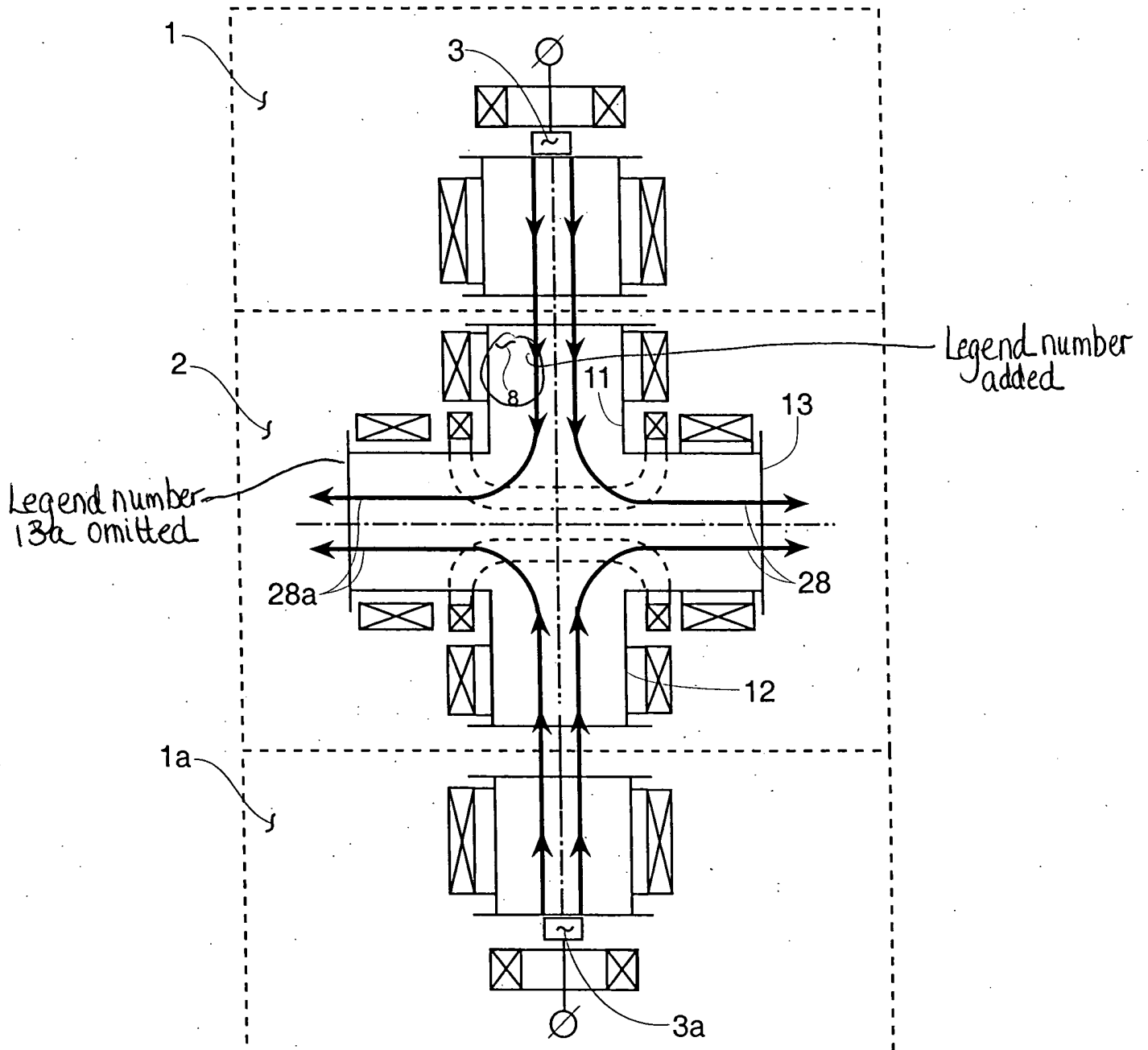


Fig. 9b

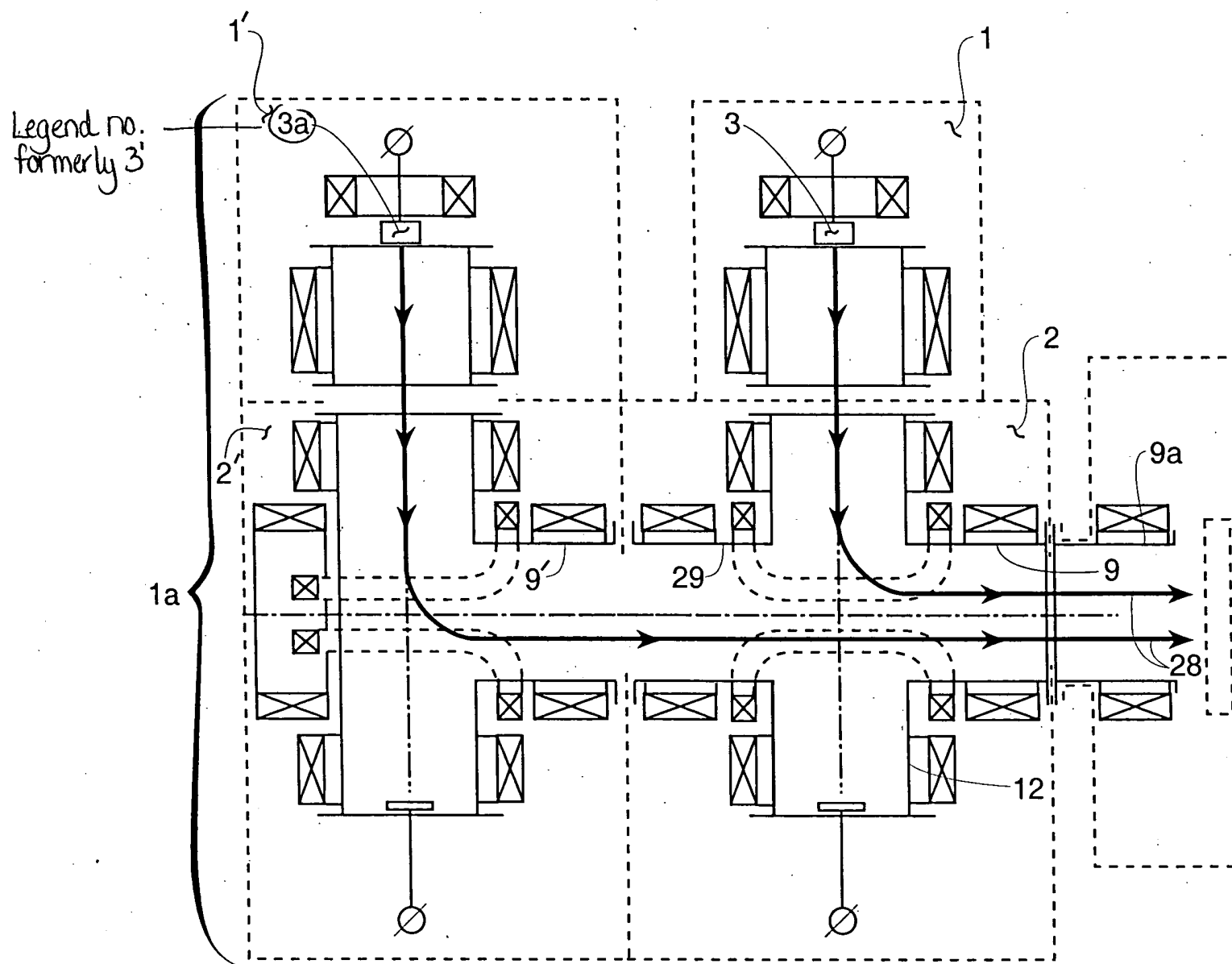
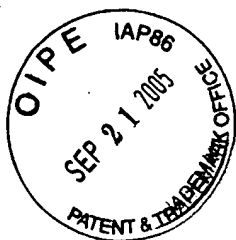


Fig. 9c

